

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No.09-CR-20491
HON. GEORGE CARAM STEEH

vs.

CUSHMEER MUHAMMAD,

Defendant.

ORDER DENYING DEFENDANT'S MOTION FOR MODIFICATION
OF SENTENCE PURSUANT TO 18 U.S.C. § 3582(c)(2) (DOC.# 23)

Defendant Cushmeer Muhammad has filed a second motion for modification of sentence under 18 U.S.C. § 3582(c)(2), based on the enactment of the Fair Sentencing Act of 2010 and retroactive amendments to the crack cocaine sentencing guidelines.

However, as this court has already determined, because Muhammad was sentenced to prison for a term of 120 months, which represented the mandatory statutory minimum sentence for his offense, rather than a sentence within a guideline range that was subsequently lowered, he is ineligible for the sentence reduction he seeks. See 18 U.S.C. § 3582(c)(2); Dillon v. United States, __ U.S. __, __, 130 S.Ct. 2683, 2691-2 (2010). Furthermore, the date of Muhammad's sentence (July 14, 2010) precedes that of the Fair Sentencing Act (August 3, 2010), which the Sixth Circuit has found has no application to sentences imposed prior to its enactment. See, e.g. United States v. Marrero, 651 F.3d 453, 475 (6th Cir. 2011).

Accordingly, defendant's motion to modify his sentence is hereby **DENIED**.

IT IS SO ORDERED.

Dated: March 19, 2013

s/George Caram Steeh

GEORGE CARAM STEEH

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 19, 2013, by electronic and/or ordinary mail and also on Cushmeer Muhammad, #43785-039, FCI Pekin, Federal Correctional Institution, P. O. Box 5000, Pekin, IL 61555.

s/Barbara Radke

Deputy Clerk